

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.197/2015
in
Civil Application No.4672/2009
in
Civil Application No.4673/2009
in
First Appeal (ST) No. 28444/2009

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Ms. Poonam Mittal for the Applicant

CORAM: K.K.TATED, J.
DATED : AUGUST 28, 2019

P.C.

1 Heard. None for the Respondent though duly served.

2 By this Civil Application, the Applicant is seeking restoration of Civil Application No.4672/2009 which stood dismissed against Respondent No.2 by order dated 20.07.2011 passed by this court.

3 The learned counsel for the Applicant submits that Respondent No.2 is duly served by publication.

4 The learned counsel for the Applicant submits that there is delay of 3 years in making the Civil Application because the previous advocate has failed to take appropriate steps against Respondent No.2 for service. In support of this contention, the learned counsel for the Applicant relies on para 2 of the Civil Application.

5 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Civil Application, I am satisfied that the Applicant has made out a case for allowing the Civil Application. At the same time, the Applicant has to pay cost of Rs.5000/- because of delay of more than 3 yeras.

6 Hence, following order is passed:

a. The Civil Application is allowed in terms of prayer clauses (a) and (b) which read thus:

“(a) That the Civil Application be allowed and Civil Application No.4672/2009 and Civil Application No.4673/2009 and First Appeal (L) No.28444/2009 be restored to file.

b) Delay of 3 years be condoned.”

b. The Applicant to pay cost of Rs.5000/-.

c. Cost shall be paid to the Kirtikar Law Library, High Court, Mumbai and place a receipt thereof on record on or before 21.09.2019, failing which the Civil Application shall stand dismissed without further reference to the court.

d. The Civil Application stands disposed of accordingly.

e. No order as to costs.

(K.K.TATED, J.)